

**SET-ASIDE LETTER**  
**[Regulation 2792.9]**

RE 688A (Rev. 5/98)

**TO — “ESCROW HOLDER”**

NAME OF ESCROW-HOLDER

ADDRESS, CITY, STATE, ZIP CODE

**ON BEHALF OF — “ASSOCIATION”**

NAME OF OWNERS ASSOCIATION

ADDRESS, CITY, STATE, ZIP CODE

**SUBDIVISION — “SUBDIVISION”**

NAME OF SUBDIVISION

COUNTY

TYPE OF SUBDIVISION

DRE FILE NUMBER

**BORROWERS — “SUBDIVIDER”**

NAME OF SUBDIVIDER

ADDRESS, CITY, STATE, ZIP CODE

For value received, we hereby agree that the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) (“Funds”) is irrevocably committed and set aside by us in a separate account (No. \_\_\_\_\_), under our control to secure the prompt and faithful performance of the Subdivider’s obligation to the Association under the Assessment Security Agreement provisions of the Assessment Security Agreement and Instructions to Escrow Depository (herein “the Contract”) dated \_\_\_\_\_ attached hereto and made a part hereof. This set aside letter is issued for the purpose of compliance by the Subdivider with the provisions of Section 2792.9 of Chapter 6, Title 10, California Code of Regulations.

We acknowledge that the Subdivider has granted the Association a security interest in the Funds to secure the obligation described above. Issuer further acknowledges and agrees that the Funds cannot be used or offset to satisfy the Subdivider’s obligations to the Issuer, if any.

This set-aside letter, together with the Agreement and the executed Escrow Instructions attached and marked Exhibit “B”, shall be delivered to the Escrow Holder for the benefit of the Association.

This set-aside letter shall not be released or exonerated unless and until the first of the following has occurred: (i) the Association has issued a certified copy of a resolution by the governing body of the Association stating that this set-aside letter is released and exonerated; (ii) the Limitation Period, as defined below, has expired without any suit or action having been filed; (iii) a judgment of liability on this set-aside letter that exhausts the amount of the Funds is satisfied; or (iv) entry of a final judgment or order by a court of competent jurisdiction determining that this set-aside letter is released and exonerated.

We shall pay to Escrow Holder an amount up to but not in excess of the funds then available for disbursement pursuant to this letter, if Escrow Holder makes a request for such funds accompanied by a statement, purportedly signed by one of the officers of the Escrow Holder, as follows:

“I certify that I am an officer of the Escrow Holder and that remittance to the Escrow Holder in the amount of \$\_\_\_\_\_ is hereby requested on the Set Aside Letter issued , \_\_\_\_\_ (date) by \_\_\_\_\_ (Issuer). This request is made in compliance with escrow instructions to Escrow Holder heretofore duly executed and delivered to Escrow Holder Escrow, pursuant to the provisions of Section 2792.9 of Chapter 6, Title 10, California Code of Regulations, by Subdivider \_\_\_\_\_ and Association \_\_\_\_\_.”

In case of a judgment or an arbitration award issued in an action or proceeding conducted between Subdivider and the Association, which directs that the Association shall be paid all or some of the Funds, then, upon receipt by us of a certified copy of the judgment or award, that portion of the Funds specified in the judgment or the award, to the extent the funds have not previously been disbursed pursuant to this set-aside letter, shall be paid to the Association or to its order for the purpose of satisfying the judgment or award.

We shall be fully protected in making payments: (a) in reliance upon requests therefor from the Escrow Holder, or (b) in reliance upon a judgment or an arbitration award, and we are not responsible for the proper use of the Funds so disbursed.

In no case will the Escrow Holder or the Association be obligated to repay to us Funds disbursed to the Escrow Holder or the Association pursuant to the provisions of this set-aside letter.

Issuer does hereby waive any right granted to Issuer to require that the Association proceed independently against Subdivider to enforce this obligation, but reserves to itself any right to require that Association proceed jointly against Subdivider and Issuer in any such action.

This set-aside letter and the rights and duties of the parties shall be binding upon and shall inure to the benefit of the successors in interest, assigns, and personal representatives of the respective parties.

A suit or action on this set-aside letter must be filed within two (2) years after title to 80% of the separate interests in the Subdivision have been conveyed ("Limitation Period").

Our obligations under this set-aside letter are unconditional and shall not be abrogated or otherwise affected by the bankruptcy of the Subdivider, by any stop notice (except a bonded stop notice), tax assessment or levy, attachment, execution or other legal process against Subdivider nor by the breach by Subdivider of any obligations to us.

*Dated:* \_\_\_\_\_

\_\_\_\_\_  
*Issuer's Name*

\_\_\_\_\_  
*By*

\_\_\_\_\_  
*Name of Person Signing*

\_\_\_\_\_  
*Title of Person Signing*

\_\_\_\_\_  
*Address*

\_\_\_\_\_  
*City, State, & Zip Code*